

201804-081
DELIVERED BY COURIER

December 13, 2011

Mr. Andrew Doersam
Senior Planner
Ministry of Municipal Affairs and Housing
Municipal Services Office – Central Ontario
777 Bay Street, 2nd Floor
Toronto, ON
M5G 2E5

RECEIVED
MUNICIPAL SERVICES OFFICE

DEC 15 2011

CENTRAL REGION
MINISTRY OF MUNICIPAL AFFAIRS
AND HOUSING

Dear Mr. Doersam:

**Re: Notice of Appeal by 1652152 Ontario Inc., carrying on business as
Crosswinds Golf & Country Club - Region Official Plan Amendment
No. 38
File No.: 24-OP-0027-038
Municipality: Regional Municipality of Halton**

We are the solicitors for 1652152 Ontario Inc. which carries on business as Crosswinds Golf & Country Club ("Crosswinds"). Attached please the following with respect to Crosswinds' appeal of ROPA 38:

1. Appellant Form (A1) duly completed together with enclosures as noted thereon; and
2. Our cheque in the sum of \$125.00 representing the appeal

Yours very truly,

DAVIS WEBB LLP
Original signed by 

Neil G. Davis
Enclosures as noted.



Environment and Land Tribunals Ontario
Ontario Municipal Board
 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
 TEL: (416) 212-6349 or Toll Free: 1-866-448-2248
 FAX: (416) 326-5370
 www.elto.gov.on.ca

**APPELLANT FORM (A1)
 PLANNING ACT**

**SUBMIT COMPLETED FORM
 TO MUNICIPALITY/APPROVAL AUTHORITY**

Date Stamp - Appeal Received by Municipality

Receipt Number (OMB Office Use Only)

Part 1: Appeal Type (Please check only one box)

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	<input type="checkbox"/> Appeal a decision	45(12)
Consent/Severance	<input type="checkbox"/> Appeal a decision	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	53(14)
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
Official Plan or Official Plan Amendment	<input checked="" type="checkbox"/> Appeal a decision	17(24) or 17(36)
	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	17(40)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	
Plan of Subdivision	<input type="checkbox"/> Appeal a decision	51(39)
	<input type="checkbox"/> Appeal conditions imposed	51(43) or 51(48)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

Part 2: Location Information

6621 Guelph Line, Part of Lot 9, Concession 4 NS
 Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: City of Burlington, Regional Municipality of Halton

Part 3: Appellant Information

First Name: Bob Last Name: Simon

1652152 Ontario Inc.
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): _____

E-mail Address: bsimon@conmedhealth.com
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 905-319-5991 Alternate Telephone #: _____

Fax #: 905-319-5992

Mailing Address: 6621 Guelph Line Burlington
Street Address Apt/Suite/Unit# City/Town
ON L7P 0A9
Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: _____
(Signature not required if the appeal is submitted by a law office.)

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: Neil G. Last Name: Davis

Company Name: Davis Webb LLP

Professional Title: Barristers & Solicitors

E-mail Address: neil.davis@daviswebb.com
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 905-451-6714 x 226 Alternate Telephone #: _____

Fax #: 905-454-8176

Mailing Address: 24 Queen Street East, Suite 800, Brampton
Street Address Apt/Suite/Unit# City/Town
ON L6V 1A3
Province Davis Webb LLP Country (if not Canada) Postal Code

Signature of Appellant: Per: Original signed by _____ Date: 13 December 2011
Neil G. Davis

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

Part 5: Language and Accessibility

Please choose preferred language: English French

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please print)

Region Official Plan Amendment No. 30, File No.:24-OP-0027-038,
Municipality: Regional Municipality of Halton

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

(Please print)

See Notice of Appeal attached.

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE PLANNING ACT.

a) DATE APPLICATION SUBMITTED TO MUNICIPALITY: _____
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:
**If more space is required, please continue in Part 9 or attach a separate page.

[Empty box for explanatory note]

Part 7: Related Matters (if known)

Are there other appeals not yet filed with the Municipality? YES NO

Are there other planning matters related to this appeal? YES NO
(For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

(Please print)

[Empty box for OMB Reference Number(s) and/or Municipal File Number(s)]

Part 8: Scheduling Information

How many days do you estimate are needed for hearing this appeal? half day 1 day 2 days 3 days
 4 days 1 week More than 1 week – please specify number of days: _____

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?
One

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.):
Land Use Planner

Do you believe this matter would benefit from mediation? YES NO
(Mediation is generally scheduled only when all parties agree to participate)

Do you believe this matter would benefit from a prehearing conference? YES NO
(Prehearing conferences are generally not scheduled for variances or consents)

If yes, why? To scope issues and settle procedural matters.

Part 9: Other Applicable Information **Attach a separate page if more space is required.

Part 10: Required Fee

Total Fee Submitted: \$ 125.00

Payment Method: Certified cheque Money Order Solicitor's general or trust account cheque

- The payment must be in Canadian funds, payable to the Minister of Finance.
- Do not send cash.
- PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.

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DELIVERED BY COURIER

December 13, 2011

Mr. Andrew Doersam
Senior Planner
Ministry of Municipal Affairs and Housing
Municipal Services Office – Central Ontario
777 Bay Street, 2nd Floor
Toronto, ON
M5G 2E5

Dear Mr. Doersam:

**Re: Notice of Appeal by 1652152 Ontario Inc., carrying on business as
Crosswinds Golf & Country Club - Region Official Plan Amendment
No. 38
File No.: 24-OP-0027-038
Municipality: Regional Municipality of Halton**

We are the solicitors for 1652152 Ontario Inc. which carries on business as Crosswinds Golf & Country Club ("Crosswinds"). Crosswinds is an 18 hole public championship golf course situated on approximately 81 hectares (200 acres) of land located between Guelph Line and Walker's Line, south of Derry Road in the City of Burlington.

Crosswinds hereby appeals Region Official Plan Amendment No. 38 ("ROPA 38"). Please find enclosed a completed appeal form as well as our cheque payable to the Minister of Finance in the sum of \$125.00 representing the appeal fee.

The grounds/reasons for the appeal are as follows:

- The Natural Heritage System as proposed by ROPA 38 does not conform to the upper tier Niagara Escarpment Plan and there has been no protocol developed with the Niagara Escarpment Commission to address the

requirement and/or exemption for an Environmental Impact Assessment (EIA).

- ROPA 38 incorporates Natural Heritage System policies that create uncertainty for any future changes and improvements to the existing golf course.
- The application of new Natural Heritage System policies and identification of Key Features to an existing golf course would inappropriately and unduly constrain any future changes and/or planned improvements to the golf course.
- The policies of ROPA 38 make it mandatory to prepare an EIA for any development or site alteration within 120 metres of a Key Feature within the Regional Natural Heritage System notwithstanding the extent of such works and whether there are local planning permissions currently in place.
- The policies of ROPA 38 do not appropriately recognize existing uses such as Crosswinds within or in proximity to the Regional Natural Heritage System and unduly constrain the use of the Crosswinds lands for their intended purpose (i.e. golf course).

We have attached previous correspondence to Mr. Ron Glenn dated November 12, 2009 from Wellings Planning Consultants (Planning Consultant for Crosswinds) outlining our concerns.

The Crosswinds appeal is for the entire ROPA 38. Crosswinds and its professional advisers are prepared to have early discussions with Ministry and Region staff in order to attempt to scope and perhaps even resolve the appeal.

Yours very truly,

DAVIS WEBB LLP 

Original signed by

Neil G. Davis ✓

Enclosures as noted.

November 12, 2009

Mr. Ron Glenn
Director of Planning Services and
Chief Planning Official
Region of Halton
1151 Bronte Road
Oakville, ON
L6M 3L1

Dear Mr. Glenn:

**Re: Comments on Draft Regional Official Plan Amendment No. 38
Crosswinds Golf and Country Club – 6621 Guelph Line - City of Burlington
Our File No.: 2007/12**

We are Planning Consultants for Crosswinds Golf and Country Club ("Crosswinds").

Crosswinds is an 18 hole public championship golf course situated on approximately 81 hectares (200 acres) of land located between Guelph Line and Walker's Line, south of Derry Road in the City of Burlington. Crosswinds also own additional lands outside of the golf course development. The Crosswinds property is currently designated "Escarpment Rural Area" and "Escarpment Natural Area" (easterly creek block) by the Niagara Escarpment Plan and "Escarpment Rural Area" and "Greenlands A" and "Escarpment Natural Area" in the Halton Official Plan ("HOP").

Map 1 of draft Regional Official Plan Amendment No. 38 ("ROPA 38") proposes to designate Crosswinds as "Agricultural Rural Area" and "Natural Heritage System". The "Natural Heritage System" designation includes additional lands than previously designated "Escarpment Natural Area" and "Greenlands A".

The "Natural Heritage System" may include the following:

- Key Features – Woodlands, Wetlands and Watercourses
- Enhancements to the Key Features
- Centres for Biodiversity
- Linkages and Buffers
- Escarpment Natural Area
- Escarpment Protection Area
- Natural Heritage System in the Greenbelt Plan
- Regulated Flood Plains

In our opinion, ROPA 38 is more restrictive than the designations in the Niagara Escarpment Plan. On Map 1G to ROPA 38 Crosswinds has more "Key Features"

identified as well as other Natural Heritage System lands which constitute either Regulated Flood Plains or Enhancements to the Key Features. The entire property is also shown as "Prime Agricultural Area" on Map 1E of ROPA 38.

We note that revised Policy 116.1 in ROPA 38 states that the mapping of certain components of the Natural Heritage System may be updated with additions, deletions and/or boundary adjustments, through programs of the Ministry of Natural Resources, Conservation Authorities and/or the Region. It would be helpful knowing which components of the Natural Heritage System may be subject to change. We also note that boundaries may be refined through certain plans and/or studies or individual Environmental Impact Assessments (EIAs).

While Crosswinds appreciates the existing natural environment and natural features both on and surrounding the golf course, the designation of additional "Natural Heritage System" lands does cause some concern regarding implications for future changes and improvements to the golf course. For example, should Crosswinds wish to modify the golf course in areas now designated "Natural Heritage System" would a ROPA and/or EIA be required, even for modest changes? Or, would an EIA be required to justify certain works/projects without the need to amend the HOP?

Further, Section 118(1)(3) of ROPA 38 requires the proponent of any development, including public works, that is located wholly or partially inside or within 120 metres of the Natural Heritage System to undertake an EIA unless: the use is permitted by the Local Official Plan (LOP) and Local Zoning By-law (LZB); or the use only requires an amendment to the LZB and the LOP does not require an EIA at the rezoning stage; or the proponent/development is exempt by specific policies of the HOP. The subject lands are designated within the Niagara Escarpment Plan and require a Niagara Escarpment Development Permit for any new development. How then are the exemption policies for an EIA applied in this case?

Overall, at this point in time, Crosswinds has not had the opportunity to overlay the new land use designations in ROPA 38, particularly the "Natural Heritage System" designations, on the layout of the existing golf course to determine where conflicts may arise. Crosswinds would like the opportunity to review the nature of the identified Key Features and the additional natural heritage features with Halton staff.

We note that existing uses are permitted in the Natural Heritage System and thereby assume that the existing golf course use is considered by the policies of ROPA 38 as an existing use and is not affected by the new land use designations. We would appreciate confirmation of this statement.

Given some of the uncertainties regarding the future requirements for any future development projects on Crosswinds, we respectfully request that the Crosswinds property be exempt from the requirements of Section 118(3) of ROPA 38, as provided for in Section 118 (3)(d) of ROPA 38.

We appreciate the opportunity to comment on ROPA 38 and look forward to discussing the impact of the proposed amendment on Crosswinds in greater detail. We would ask that we be provided with future notice with respect to ROPA 38.

Yours truly,
WELLINGS PLANNING CONSULTANTS INC.

Original signed by

✓ Glenn J. Wellings, MCIP, RPP

Copy: Neil Davis/Ellen Pefhany, Davis Webb